

Message Text

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ACTION EB-07

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E.O. 11652: N/A
TAGS: EAIR, BR
SUBJECT: FUEL TAX CHARGES

REF: (A) STATE 305724, (B) BRASILIA 10108, (C) BRASILIA 10419

1. SUMMARY. DECREE-LAW 1490 (TRANSLATION PROVIDED REF B), WHICH ADDED IN "ALINEA M" AN AMOUNT TO THE BASIC SELLING PRICE OF AVIATION FUELS AND LUBRICANTS FOR ALL CONSUMERS EXCEPT THE BRAZILIAN ARMED FORCES, MAKES REFERENCE TO OTHER LEGISLATION. FOLLOWING IS A RESUME OF THE PERTINENT PARTS OF THIS LEGISLATION IN AN ATTEMPT TO PROVIDE THE CONTEXT FOR "ALINEA M". END SUMMARY.

2. RE PARA 4 (D) REF A, PREVIOUS LEGISLATION MOST RELEVANT TO DECREE-LAW 1490, WHICH ADDED THE "ALINEA M" AMOUNT ON AVIATION FUELS, IS LAW 4452 OF NOVEMBER 5, 1964, DEALING WITH THE IMPOSITION OF THE SOLE TAX ON LUBRICANTS AND ON LIQUID AND GESEOUS FUELS. ART. ONE OF THIS LAW PROVIDES A LIST OF AFFECTED PETROLEUM DERIVATIVES: LIQUIFIED GAS, AVIATION GASOLINE, CAR GASOLINE TYPE A, CAR GASOLINE TYPE B, AVIATION KEROSENE, KEROSENE, DIESEL FUEL, FUEL OIL AND LUBRICATING OIL. ART. 13 OF THIS LAW, AS AMENDED BY
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DECREE-LAW 1296 OF DECEMBER 26, 1973, READS: "THE NATIONAL PETROLEUM COUNCIL WILL FIX THE SELLING PRICES TO THE CONSUMER OF THE LISTED PETROLEUM DERIVATIVES, ADDING, WHEN APPROPRIATE, TO THE RESPECTIVE SELLING PRICE FROM THE REFINERY, DEFINED IN ARTICLE 2 OF THE DECREE-LAW 61 OF NOVEMBER 21, 1966, THE COST OF THE DUTY FALLING ON THE

DERIVATIVES AND IN ADDITION THE FOLLOWING AMOUNTS."

3. THESE AMOUNTS ARE SUBDIVIDED INTO "COSTS OF DISTRIBUTION AND RESALE" (ITEM ONE OF ARTICLE 13) AND "OTHER COSTS" (ITEM TWO OF ARTICLE 13). "ALINEA M" IS ONE OF THE SUB-PARAGRAPHS UNDER "OTHER COSTS". THE "OTHER COSTS" COMPRISE:- (SUBPARA A) COSTS OF TRANSPORTATION IN INTERNAL AND COASTAL WATERS; (SUBPARA B) AN AMOUNT RELATIVE TO THE MIXTURE OF ANHYDROUS ALCOHOL TO CAR GASOLINE; (SUBPARA C) AN AMOUNT COMPENSATING FOR DIFFERENCES IN PRICES BETWEEN THE CIF PRICE OF IMPORTS OF PETROLEUM DERIVATIVES AND THE EX-REFINERY PRICE IN BRAZIL; (SUBPARA D) AN AMOUNT TO PAY FOR FISCAL, ADMINISTRATIVE, TECHNICAL AND SCIENTIFIC ACTIVITIES OF THE NATIONAL PETROLEUM COUNCIL; (SUBPARA E) AN ADDITIONAL AMOUNT ON THE PRICE OF LOW-VISCOSITY FUELS; (SUBPARA F) AN AMOUNT COMPENSATING FOR CERTAIN TRANSPORTATION CHARGES WHICH REDUCE PROFIT LEVELS BELOW THOSE GUARANTEED BY THE NATIONAL PETROLEUM COUNCIL; (SUBPARA G) AN AMOUNT PROVIDING TO PRODUCING STATES THE EQUIVALENT OF 6 PERCENT OF THE VALUE OF NATIONAL CRUDE OIL PRODUCTION FOR USE IN ROAD CONSTRUCTION; (SUBPARA H) OTHER AMOUNTS WHICH BECOME NECESSARY; (SUBPARA I) AN AMOUNT OVER THE SELLING PRICE OF AUTOMOBILE FUEL, KEROSENE AND LIQUIFIED GAS TO PROVIDE RESOURCES TO PETROBRAS FOR THE AMORTIZATION OF THE COSTS OF PRESPECTING ALONG THE BRAZILIAN CONTINENTAL SHELF AND IN EXTRACTING OIL FROM SHALE; (SUBPARA J) AN AMOUNT OVER THE SELLING PRICE OF AUTOMOBILE, KEROSENE, AND LIQUIFIED GAS TO PROVIDE RESOURCES FOR PROSPECTING FOR COAL AND SHALE WITH HALF THE PROCEEDS GOING TO THE NATIONAL MINERAL FUND AND THE UNCLASSIFIED

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OTHER HALF TO COMPANIES UNDERTAKING RISK PROJECTS; (SUBPARA K) (NOT LOCATED IN LEX); (SUBPARA L) AN AMOUNT OVER THE SELLING PRICE OF AUTOMOBILE FUELS, KEROSENE AND FUEL OIL TO SUBSIDIZE DOMESTIC ENERGY AND REDUCE DEPENDENCE ON EXTERNAL SOURCES UNDER THE RESPONSIBILITY OF THE NATIONAL PETROLEUM COUNCIL; AND (SUBPARA M) AN AMOUNT OVER THE SELLING PRICE OF AVIATION FUELS AND LUBRICANTS, DESIGNED TO FINANCE THE AVIATION FUND.

4. AN INFORMAL TRANSLATION OF AVIATION FUND LAW NO. 5989 OF DECEMBER 17, 1973, WAS PROVIDED IN REF B. CRIMMINS

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